

UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

(Formerly Unit 57)

_____ has satisfactorily completed on-the-job training in the Part or Parts of this Unit specified below.

Certification for Part A: Consent Requirements

Duty	Incorporate consent requirements in the RFP.
Conditions	Given Purchase Requests, market data, acquisition histories, estimated value of the contract, and a decision on the type of contract to solicit.
Overall Standard(s)	Correctly identify the clause(s) (if any) that are applicable to the contract action.
Evaluator	Name _____ Title _____ Date _____

Certification for Part B: Consent to Subcontracts

Duties	1. Determine whether consent is required. 2. If required, consent (or decline to consent) to the placement of proposed subcontracts.
Conditions	Given proposed subcontracts and a contract with the clause at FAR 52.244-1, 244-2 or 244-3.
Overall Standard(s)	Identify all subcontracts which require consent and give or deny consent. Consent only to subcontracts that will be awarded to responsible subcontractors. Do not consent to any subcontract prohibited by the FAR. Do not consent to subcontracts (a) for supplies that should be made rather than bought, (b) that exceed minimum requirements or are not technically sound, and/or (c) would be awarded through procedures not likely to result in fair and reasonable prices or on-time delivery of needed supplies or services.
Evaluator	Name _____ Title _____ Date _____

UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

(Formerly Unit 57)

Certification for Part C: Purchasing System Reviews

Duties Review contractor purchasing systems.

Conditions Given a contract subject to purchasing system reviews.

Overall Standard(s) Determine whether and when to review the contractor's purchasing system. Negotiate improvements and monitor implementation. Take measures to protect the Government if the purchasing system is deficient.

Evaluator Name _____

Title _____

Date _____

Certification for Part D: Make-Or-Buy

Duties Monitor contractor compliance with make-or-buy plans.

Conditions Given a contract with a make or buy plan.

Overall Standard(s)

Evaluator Name _____

Title _____

Date _____

DOCUMENTATION OF OJT ASSIGNMENT(S)	
Description of Assignment:	
Evaluation:	
Completion Date:	

62-3

UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

Policies

<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
9.402(a) and 9.405-2		Restrictions on consenting to subcontracts with excluded firms.
15.805-1(c)		Contractors required to perform price or cost analysis for all significant proposed subcontracts and purchase orders.
35.009		Consent to R&D subcontracts.
44.2		Consent to subcontracts.
44.3		Contractor's purchasing system reviews.
52.208-1 and 208-2		Required sources for jewel bearings.
52.209-6		Restrictions on subcontracting with excluded sources.
52.219-14		Limits on amount of subcontracting.
52.222-28		EEO clearance of subcontracts.
52.244-1 through 3		Subcontract clearance requirements.
52.244-5		Requirement to compete subcontracts.

Other KSA's

1. Reserved.

Other Policies and References (Annotate As Necessary):

UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

Part A: Consent Requirements

Tasks	Related Standards
<p>1. Determine consent requirements for fixed price contracts.</p> <ul style="list-style-type: none"> Determine whether or not to incorporate the clause at 52.244-1. Identify specific subcontracts (if any) that merit consent regardless of the status of the contractor's purchasing system (52.244-1(e)). 	<p>A1. Incorporate the clause at 52.244-1 when a fixed price contract is contemplated and</p> <ul style="list-style-type: none"> The contract amount is expected to exceed \$500,000, or The contracting officer determines that its use will be in the Government's interest. <p>Incorporate the clause for contractors under \$500,000 when closer surveillance of subcontracting is necessary because of the nature of the industry involved, criticality of the work expected to be subcontracted, absence of competition in placing the prime contract, uncertainties as to the adequacy of the contractor's purchasing system, or novelty of the supplies or services being purchased.</p> <p>Identify subcontracts that merit consent under the terms of 52.244-1 even if the contractor has an approved purchasing system.</p>
<p>2. Incorporate the clause at 52.244-2 when a cost reimbursement or letter contract is contemplated.</p>	<p>Enter the identifiers of specific subcontracts (if any) that merit consent regardless of the status of the contractor's purchasing system (52.244-2(e)).</p>
<p>3. Incorporate the clause at 52.244-3 when a time-and-materials or labor-hour contract is contemplated.</p>	
<p>4. Incorporate the clause at 52.244-5 unless:</p> <ul style="list-style-type: none"> The contract amount is expected to fall under SAT, The contract is firm fixed price awarded on the basis of adequate price competition or on the basis of prices set by law or regulation, The contract type is time-and-materials or labor-hour, or The contract is for architect-engineer services. 	

UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

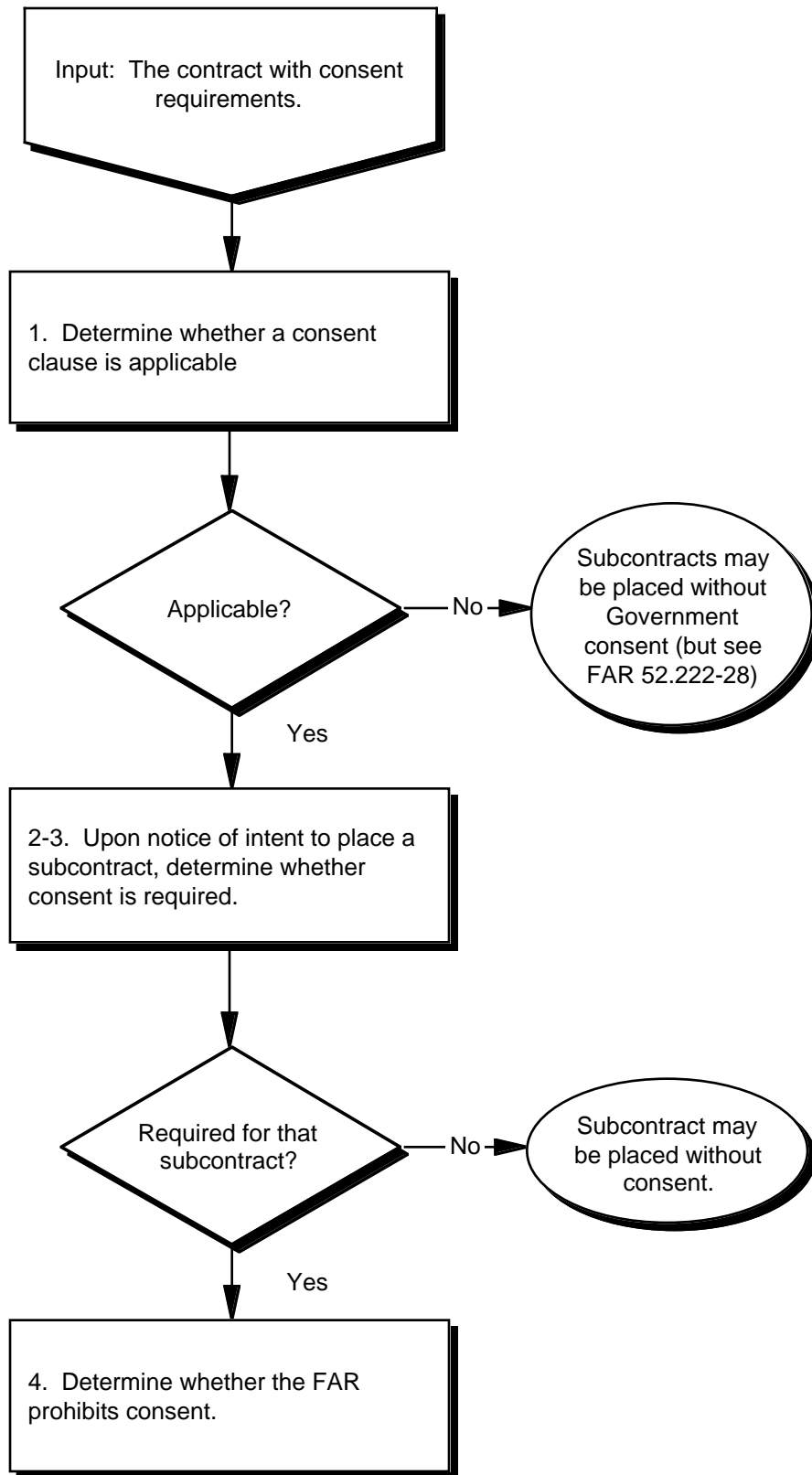
Part A: Consent Requirements

Tasks

Related Standards

5. Incorporate the clause at 52.222-28 (Equal Opportunity Preaward Clearance of Subcontracts) when: <ul style="list-style-type: none">• The contract amount is expected to be for \$1,000,000 or more, and• The contract includes the clause at FAR 52.244-1, 52.244-2, or 52.244-3.	5. Do not include this clause in solicitations or contracts for construction.
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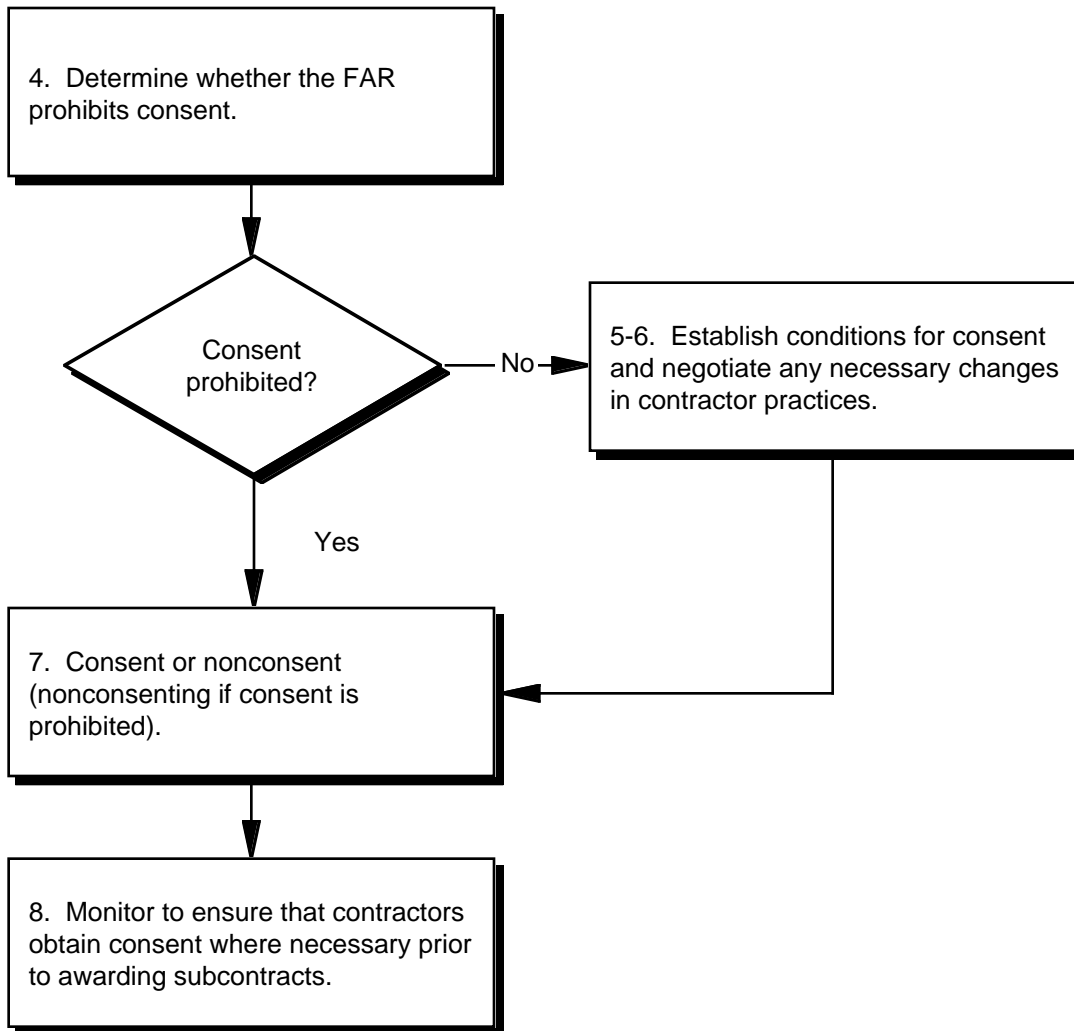
CONSENT TO SUBCONTRACTS



(Flowchart continued on next page)

CONSENT TO SUBCONTRACTS

(Flowchart continued from prior page)



UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

Part B: To Consent Or Not To Consent

Tasks

Related Standards

<p>1. Identify applicable "consent" and other prior notification clauses.</p> <ul style="list-style-type: none"> The clause at FAR 52.244-1 (Subcontracts Fixed Price Contracts) is applicable only if: <ul style="list-style-type: none"> The contract is a type other than Firm Fixed Price or Fixed Price with Economic Price Adjustment, or The subcontract results from an unpriced modification to the prime contract. The clause at FAR 52.244-2 applies to all types of cost-reimbursement and letter contracts. The clause at FAR 52.244-3 applies to all time-and-materials and labor-hour contracts. Other incorporated clauses are applicable regardless of contract type (e.g., 52.209-6 and 52.222-28.) 	<p>B1. Correctly determine whether the "consent" clause at FAR 52.244-1 is applicable. Identify any other clauses in the contract that require the contractor to notify the contracting officer prior to entering into a subcontract.</p>
<p>2a. If the contractor does not have an approved purchasing system, identify the types of subcontracts for which consent is required.</p> <ul style="list-style-type: none"> For fixed price prime contracts, consent is required for any subcontract that is: <ul style="list-style-type: none"> Estimated to exceed \$100,000, or One of a number of subcontracts with a single subcontractor for the same or related supplies or services, when the aggregate value of those subcontracts is expected to exceed \$100,000. For cost-reimbursement contracts, consent is required if: <ul style="list-style-type: none"> The subcontract is for fabrication, purchase, rental, installation, or other acquisition of special test equipment valued at more than \$10,000 or of any items of facilities, The subcontract has experimental, developmental, or research work as one of the purposes, The subcontract is on a cost-reimbursement, time-and-material, or labor-hour basis. The subcontract's fixed price exceeds either (or in DoD, Coast Guard, and NASA, the greater of) the small purchase limitation in Part 13 or 5% of the total estimated cost of the prime contract. 	<p>B2a. Also require the prime contractors with fixed price contracts to submit subcontracts under \$100,000 for consent when closer surveillance of subcontracting is necessary because of the nature of the industry involved, criticality of the work expected to be subcontracted, absence of competition in placing the prime contract, uncertainties as to the adequacy of the contractor's purchasing system, or novelty of the supplies or services being purchased.</p>

UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

Part B: To Consent Or Not To Consent

Tasks

Related Standards

<ul style="list-style-type: none"> • Regardless of contract type, contractors must: <ul style="list-style-type: none"> - Provide prior notice to the contracting officer, as prescribed by FAR 52.209-6, prior to placing a subcontract with an "Excluded Party." - When the clause at FAR 52.228-28 applies, receive a prior EEO clearance before placing any contemplated first-tier contract at an estimated or actual amount of \$1 million or more. 	
<p>2b. If the contractor has an approved purchasing system, identify the types of subcontracts for which consent is required.</p> <ul style="list-style-type: none"> • For fixed price contracts, consent is only required for subcontracts selected for special surveillance (52.244-1(e)). • For letter or cost reimbursement contracts (other than facilities contracts), consent is required only if: <ul style="list-style-type: none"> - The subcontract was selected for special surveillance (52.244-2(e)). - The subcontract is for fabrication, purchase, rental, installation, or other acquisition of special test equipment valued at more than \$10,000 or of any items of facilities, or - The subcontract has experimental, developmental, or research work as one of the purposes. • Regardless of contract type, contractors must: <ul style="list-style-type: none"> - Provide prior notice to the contracting officer, as prescribed in FAR 52.209-6, prior to placing a subcontract with an "Excluded Party." - When the clause at FAR 52.228-28 applies, receive a prior EEO clearance before placing any contemplated first-tier contract at an estimated or actual amount of \$1 million or more. 	

UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

Part B: To Consent Or Not To Consent

Tasks	Related Standards
<p>3. Obtain the notification and supporting data required for consent or an EEO clearance.</p> <p>(Note: Designation of a specific subcontractor by the Government or evaluation of subcontracts during contract negotiations does not in itself satisfy the requirements for advance notification or consent. If the consent requirements have been satisfied in negotiations prior to award, place a statement to that effect in the contract—as prescribed in FAR 44.202-1(c).)</p>	<p>B3. Identify and obtain correction of any omission or deficiency in the contractor's notification given the requirements of the applicable clause.</p>
<p>4. Determine whether the FAR prohibits consent.</p> <ul style="list-style-type: none"> • Fee exceeds fee limitations of 16.301-3 for cost reimbursement contracts. • Payment on cost plus percentage of cost basis. • Subcontracts establish privity between Government and subcontractor (e.g., that obligate contracting officers to deal directly with the subcontractor). • Subcontracts make the results of arbitration, judicial determination, or voluntary settlements between the prime and subcontractor binding on the Government. • Repetitive or unduly protracted use of cost-reimbursement, time-and-materials, or labor hour subcontracts. • Proposed subcontractor is on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs. • Proposed subcontract is for items that the contractor is required by the FAR clause at 52.208-1 to obtain from the Plant. • For first tier subcontracts with an estimated value of \$1 million or more, the proposed subcontractor is not in compliance with equal opportunity requirements. 	<p>B4. Do not consent to any subcontract prohibited by FAR. If the subcontractor is on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs, only consent to the subcontract as provided in FAR 9.405-2 and 52.209-6. Do not consent to any subcontractor not in compliance with equal opportunity requirements under the clause at 52.222-28.</p>


UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

Part B: To Consent Or Not To Consent


Tasks

Related Standards

<p>5. Determine whether to withhold consent and changes or corrections (if any) that should be made as a condition of consent.</p>	<p>B5. Consider:</p> <ul style="list-style-type: none"> • Contractual limits on the amount of subcontracting (e.g., see the clause at 52.219-14). • The necessity for subcontracting. • Consistency with "make or buy" program. • Availability of the special test equipment of facilities from Government sources that would otherwise be procured under a subcontract. • Technical justification for the selection of the particular supplies, equipment, or services. • Prime contract requirements regarding small business subcontracting, including, if applicable, its subcontracting plans (as taught in Unit 48). • Adequacy of price competition obtained or the justification for its absence. • The contractor's assessment and disposition of alternate proposals from subcontractors, if offered. • The basis for selecting the particular subcontractor and determining its responsibility. • Adequacy of the contractor's cost or price analysis. • Whether the contractor obtained accurate, complete, and current cost or pricing data, including any required certification. • The type of subcontract, given the risks involved and current policies on the use of that type of contract. • Adequacy of consideration for any proposed subcontract that will involve the use of Government-furnished facilities. • Adequacy and reasonableness with which the contractor has translated prime contract technical requirements into subcontract requirements. • Compliance with applicable cost accounting standards for awarding the subcontract.
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 When performing the **following** functions, the FAR requires contracting officers to separately consider the interests of women-owned small business concerns (kindred to the consideration provided to the interests of small disadvantaged business concerns and to small business concerns generally). [FAC 90-32, Case 94-780]

- *Consent to Subcontracts* — Identifying changes or corrections (if any) in subcontracting procedures that the contractor should make as a condition for consent pursuant to §44.202-2 and §44.303.

 The fact that a firm is a “labor surplus area concern” NO LONGER MATTERS when performing other functions and tasks, such as the following. [FAC 90-32, Case 94-780]

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Part B: To Consent Or Not To Consent

Tasks

Related Standards

- *Consent to Subcontracts* — Identifying changes or corrections (if any) in subcontracting procedures that the contractor should make as a condition for consent. [§44.202-2 and §44.303]

6. Negotiate changes or corrections in the contractor's subcontracting procedures, terms and conditions, and the like (where necessary, modifying the contract per Unit 76).	
7. Consent or nonconsent, document the decision, and communicate the decision in writing to the contractor.	
8. Monitor contract performance to ensure that subcontracts are not awarded without consent (per Unit 56).	

UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

Part C: Purchasing System Reviews

Tasks

Related Standards

UNIT 62 CONSENT TO SUBCONTRACTS & PURCHASING SYSTEM REVIEWS

Part D: Compliance with Make or Buy Plans

Tasks

Related Standards

1. Identify changes in make-or-buy plans. <ul style="list-style-type: none">• Review notices of proposed changes in make-or-buy categories under FAR 52.215-21.• Obtain any other evidence of a change in the contractor's make or buy decisions.	
2. Determine the impact of the change on the contractor's cost of performance.	2. Accurately determine whether the change will result in more economical performance and (2) the likely savings in dollars to the contractor.
3. Obtain an equitable adjustment.	3. Negotiate an adjustment commensurate with the savings.